IN THE COURT OF APPEALS OF OHIO
TENTH APPELLATE DISTRICT

Lucas, Prendergast, Albright, Gibson & Newman,	:	
Plaintiffs-Appellees,	:	
v.	:	No. 95APE05-651
Florence Zschach etc., and Marylou Zschach a/k/a Marylou Zschach etc.,	:	94CVH08-5929 (REGULAR CALENDAR)
Defendants-Appellants,	:	(Filed July 12, 1995)
Margaret Ann Sloan etc.,	:	
Defendant-Appellee.	:	

JOURNAL ENTRY OF DISMISSAL

Appellants filed a notice of appeal from the April 25, 1995, decision and entry of the trial court denying appellants' motion to amend their counterclaim and request for a jury trial. Appellees have filed a motion to dismiss this appeal for lack of a final appealable order and appellants have filed a memorandum in opposition to appellees' motion to dismiss. Upon review of the record and the memoranda of the parties, it is clear that the order appealed from does not constitute a final appealable order under R.C. 2505.02 inasmuch as the order neither effectively determines the action and prevents a judgment nor is it an order which affects a substantial right which was made in a special proceeding. *See Polikoff v. Adam* (1993), 67 Ohio St 3d 100. In addition, the trial court did not make a determination that there was no just reason for delay pursuant to Civ.R. 54(B). Accordingly,

appellee's motion to dismiss is granted, and this appeal is hereby *sua sponte* dismissed for lack of a final appealable order.

/s/ John C. Young
Judge John C. Young

/s/ Michael L. Close
Judge Michael L. Close

/s/ Cynthia C. Lazarus
Judge Cynthia C. Lazarus

cc: Gordon P. Shuler
John R. Heath
R. Douglas Wrightsel